

I825issC

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x

4 UNITED STATES OF AMERICA, New York, N.Y.
5 v. 17 Cr. 74 (CM)

6 IBRAHIM ISSA,
7 -----x

8 Defendant.
9

10 August 2, 2018
11 2:50 p.m.
12

13 Before:
14

15 HON. COLLEEN MCMAHON,
16

17 District Judge
18

19 APPEARANCES
20

21 GEOFFREY S. BERMAN
22 United States Attorney for the
23 Southern District of New York
24 BY: ELIZABETH A. HANFT
25 NOAH D. SOLOWIEJCZYK
KYLE A. WIRSHBA
Assistant United States Attorneys

BRAFMAN & ASSOCIATES, P.C.
Attorney for Defendant
BY: BENJAMIN BRAFMAN
JOSHUA D. KIRSHNER

1825issC

1 (Case called)

2 THE DEPUTY CLERK: Your appearance?

3 MR. SOLOWIEJCZYK: Good afternoon, your Honor. Noah
4 Solowiejczyk on behalf of the government. I am joined at
5 counsel by Kyle Wirshba and Elizabeth Hanft.6 MR. BRAFMAN: Good afternoon, your Honor. Benjamin
7 Brafman and Josh Kirshner for Mr. Issa, who is present in the
8 court.9 THE COURT: Okay. All right. So, we have a trial
10 date.

11 MR. BRAFMAN: Yes.

12 THE COURT: We have a schedule. So, what do we need
13 to talk about today? What's going on?14 MR. BRAFMAN: We have just one issue. I am just
15 confirming that our trial date of November 26th is still good?
16 Is that correct, your Honor?

17 THE COURT: I'm not changing it.

18 MR. BRAFMAN: Okay. I just wanted to verify.

19 We have one issue that we believe has to be briefed.
20 We discussed it briefly with the government. We have agreed on
21 a schedule, subject to your Honor's approval. It relates to
22 records that were seized of a financial nature and we believe
23 that there is an issue your Honor must resolve as to whether
24 these records were under an attorney's privilege because of a
25 Kovel agreement with a tax preparer. I don't think it needs

1825issC

1 extensive briefing and, depending on the briefs, perhaps a
2 brief evidentiary hearing. But, not certain that will be
3 necessary.

4 THE COURT: So, what's the briefing schedule that you
5 all have come up with?

6 MR. BRAFMAN: We have agreed that we will submit our
7 motion by August 17th, which is I think two weeks from today,
8 and the government does agree they will respond by August 31st
9 with a reply, if necessary, to be filed by 9/14, if that's
10 acceptable to the Court.

11 THE COURT: The schedule is absolutely acceptable to
12 the Court. That means we need to meet sometime toward the end
13 of September so that I can render a decision, or maybe we don't
14 need to meet. Have we set a whole pretrial schedule?

15 THE DEPUTY CLERK: That's what we had to do today.

16 THE COURT: Okay.

17 So, that motion schedule is fine. And let's, while we
18 are at it, just set a schedule for everything else. So, 404(b)
19 disclosure and government *in limine* motions to be made by --
20 why don't you make them by the 14th of September, along with
21 your opposition to Mr. Brafman's motion and defense *in limine*
22 motions and response to the government *in limine* motions by,
23 why don't we say October 5th.

24 MR. BRAFMAN: I'm sorry, your Honor?

25 THE COURT: October 5th.

1825issC

1 MR. BRAFMAN: Fine.

2 THE COURT: I don't take replies on *in limine* motions
3 so the government response to defense *in limine* motions, I will
4 give you a couple of weeks, until October 19th, and then we
5 will need to have a final pretrial conference, possibly the
6 week before the trial, which is a short week because that's
7 Thanksgiving week so it consists of exactly two days, Monday
8 and Tuesday.

9 THE DEPUTY CLERK: 19th, at 4:00.

10 THE COURT: So Monday, November 19, at 4:00 p.m.

11 Do you all see any reason to get together before then?

12 MR. BRAFMAN: No, your Honor.

13 MR. SOLOWIEJCZYK: No, your Honor.

14 THE COURT: Okay. All right. Unless we have to have
15 a hearing. If I think we have to have a hearing on the defense
16 motion I will ask Mr. O'Neill to get in touch with you and to
17 set a date then. Okay? So we will have a bunch of motions
18 here so time excluded in the interest of justice.

19 MR. BRAFMAN: Your Honor, two questions? May I?

20 THE COURT: Yes.

21 MR. BRAFMAN: Next time we are to appear is November
22 19th at 4:00 p.m.?

23 THE COURT: That's correct; unless we have to have a
24 hearing on your motion that you just described to me and if
25 that happens, Mr. O'Neill will call you.

1825issC

1 MR. BRAFMAN: That's fine.

2 THE COURT: And make it at a time of your convenience.

3 MR. BRAFMAN: And can we have an understanding as to
4 when the government will provide finalized transcripts of any
5 tapes they intend to use, and also 3500 material?

6 THE COURT: Yes, you may.

7 What is going on with the tape transcripts?

8 MR. SOLOWIEJCZYK: Your Honor, we would have to enter
9 into a transcript stipulation with the defense and then we can
10 work on providing draft transcripts. In terms of finalized
11 transcript, it is going to take some time.

12 THE COURT: That's the issue. When are you going to
13 get them to him?

14 MR. BRAFMAN: We will enter into the draft transcript
15 stipulation any time you send us it.

16 THE COURT: Thanks, Mr. Brafman. Certainly finals by
17 November 2nd; 3500 material same, November 2nd. And, time is
18 excluded until the trial date. Most of that time will be
19 consumed by motions but in the interest of justice and interest
20 of speedy trial being outweighed by the need for the Court to
21 consider, I am going to guess rather more extensive motions
22 than I had anticipated.

23 MR. BRAFMAN: It will not be extensive.

24 THE COURT: I don't know, Mr. Brafman.

25 MR. BRAFMAN: But it might be interesting.

I825issC

THE COURT: Interesting is good. I am in the mood for interesting.

MR. BRAFMAN: Good. Me too.

THE COURT: Great. All right. Terrific.

I will see you in November. I will see your papers long before then.

MR. BRAFMAN: Thank you very much, your Honor.

MR. SOLOWIEJCZYK: Thank you, your Honor.

THE COURT: Thank you.

○○○